Justice and the Politics of Peace building: Comparing Experiences in Kosovo, Cambodia and northern Uganda[1]

Dr. Alistair D. Edgar[2]

"The world is full of guilt that has never been forgiven
and which can now no longer be forgiven – unless by God.
But forgiveness is not the only response
to an injury that keeps it from festering and allows it to rest."[3]

Abstract

What "justice" means, and how or where different forms of justice fit within larger processes of conflict resolution and sustainable peace – such as war-to-peace transitions, ceasefires, peace settlements and post-conflict peace building – are questions that defy simple answers. Peace and justice too often have become idealized or politicized notions, sometimes portrayed as intimately and positively intertwined ("no peace without justice"), and on other occasions declared as mutually contradictory ("no peace settlement without withdrawal of ICC indictments"). Serbia/Kosovo, Cambodia and Uganda provide three fascinating case studies of the complex political debates that are attached to the ideas of justice and peace building. In each case, internal (local, national) and external (regional, international) political, social, economic and other influences have played roles in shaping the nature of the "justice" that is sought by various actors in the violent conflicts that have done so much harm to their populations. What emerges from the analysis here is a story not of a single, clear path towards justice, reconciliation and sustainable peace, but rather of a difficult, awkward and uncertain process of balancing goals and claims that at different times can be complementary or contradictory, central or irrelevant, or more often a mixture of values that can change over time and circumstance as well as in the eyes of the beholder.

NOTE: Having also recently (January-February 2010) completed a first round of field research work in Afghanistan, the paper also includes references to some of the

---

[1] Paper originally presented to the Canadian Political Science Association Annual meeting, Concordia University, Montreal, 2 June 2010.

[2] Alistair Edgar is Executive Director of the Academic Council on the United Nations System (ACUNS); an Associate Professor of Political Science at Wilfrid Laurier University, Waterloo, Ontario, Canada; and Research Associate at the Laurier Centre for Military Strategic and Disarmament Studies (LCMSDS). He can be contacted by e-mail at aedgar@wlu.ca. The opinions expressed here are his own, not those of ACUNS, the University or LCMSDS.

[3] Bernhard Schlink, *Guilt About the Past* (Toronto: Anansi Press, 2010): 74.

issue(s) of justice and peace building there, at least arguably as an example of a country struggling to find ways forward in a phase of war-to-peace transition.

Introduction: Thinking about Justice and Peace building

The current paper is one expression of a broader research project that arose over the past decade from my increasing interest in 'war termination' – that is, how wars (especially contemporary intra-state or civil wars) end, what happens when they do, and whether sustainable peace emerges in their place. This is the other end of the analytical spectrum from the older, traditional international relations concern with war as a general phenomenon in international affairs, and why specific wars arise where, when and how they do. It is also a logical progression from, and in some ways an outgrowth of, research concerns about conflict management and conflict resolution. In that sense, it feels as if three decades of reading, researching and thinking about conflict analysis now serves as a "deep base" from which to explore peace building, despite the oft-cited change in the nature of conflict from primarily inter-state to primarily intra-state.

At the 'macro' level, the broader research project examines how and where considerations of truth, justice and reconciliation *fit into* processes of war-to-peace transition, and post conflict reconstruction and peace building. At the 'micro' level, the focus is upon whether and how truth, justice and reconciliation *fit together* as goals, values and program activities in specific cases of states and societies that are emerging from conflict and dealing with these dimensions of their past. And in particular, I am interested in how these processes and activities are perceived and received by the various actors within the societies most affected by the conflict, rather than how they are seen by indirectly affected international organizations or other external parties.

An initial presumption of all of the analysis advanced here is that, as Feargal Cochrane suggests, "violent conflicts are acts of human agency combined with a set of structural circumstances that trigger, cause or even encourage such acts"; with the associated observation that the majority of these "wars can be controlled and eventually terminated by human agency, given conducive structural conditions."[4] Conflicts are frequent, and frequently brutal; they may have one single initial cause, or many causes that arise over time; and the contemporary trend towards internal (un)civil wars includes a larger and more disparate number of actors engaged in, as well as more civilian victims of, conflict so that a negotiated ceasefire or peace agreement becomes still harder to achieve. Nonetheless it is important to be able to work from the basic premise that these conflicts can, under some circumstances, be ended. If that were not the case, there would be no point in further analysis; all that would be needed is a fatalistic shrug of the shoulders and a single-sentence, single cause deterministic answer. With no pun intended, that would do absolutely no

[4] Feargal Cochrane, *Ending Wars* (Cambridge: Polity, 2008): 1.

justice to the complex problems that exist in these locations, or to the people who inhabit them.

The observations that follow draw from field research undertaken in each of the three conflict zones noted in the title – Cambodia, Kosovo and Uganda – during 2008-2009, as well as a more recent trip to Afghanistan in early 2010. Discussions held in New York and Geneva, Nuremberg and Tokyo, Zagreb and Brussels and Oxford and New Delhi, at several academic and practitioner conferences and workshops arranged by governments, NGOs and international organizations, also have fed into my thinking. It is qualitative not quantitative; in most instances from formal though open ended interviews; although occasionally also from casual conversations with hotel staff, taxi drivers, newspaper vendors, restaurant staff, and people who approached me in coffee shops wanting to ask what I was doing, and why I was there. No direct attributions will be made here, unless taken from public and published material, both because many of the discussions were granted on a 'Chatham House rules" basis, and because occasionally such attribution might have negative consequences for the person(s) involved. There are also, of course, many excellent published secondary sources (books, reports, and papers) on each of these conflicts, and I note some of these during the analysis but for the majority of the material that forms the basis of this paper I draw upon the interviews and other discussions to then offer my own observations.

Locating and Framing the Cases

Justice, forgiveness, and reconciliation, are terms that have become common currency in discussions of ending war and building peace. In many ways however, they all also are contested or contestable ideas, with different meanings and modes of practice. What "justice" means (if there is a single meaning, or if instead one always must ask, justice for whom and for what purpose or to what end?), and how or where different forms of justice (formal and informal or traditional, judicial and non-judicial, retributive and restorative) fit within larger processes of conflict resolution and sustainable peace – such as war-to-peace transitions, ceasefires, peace settlements and post-conflict peace building and development – are questions that defy simple answers. The enforcement of formal, retributive justice may bring legal closure but may not heal social divisions in a way that personal, individual forgiveness and reconciliation can do. Even so, as the opening quotation of this study suggests, that too may be an incomplete response. Forgiveness granted by victims to perpetrators is one of several non-judicial approaches to dealing with harms committed during past conflict, or during the search for a path towards peace and out of an ongoing conflict. Such injuries also "can be condemned, forgotten, and have their burdensome meaning lifted through reconciliation."[5] In many cases, individual perpetrators also may have been victims – such as abducted children who then go on to kill, maim, rape, and loot as child soldiers even as they suffer physical and psychological abuse themselves.

[5] Ibid., 74-75.

Even the term "peace" may refer in a limited sense to the absence of war despite ongoing deep tensions (often referred to as "negative peace"), or it may be taken to mean additionally the elimination of these underlying hostilities and the emergence in their place of a broad and inclusive identity, a commonly held vision, and real social, economic and political bonds that render violent conflict – war - virtually unthinkable in or between communities ("positive peace" or cosmopolitan peace). Peace may be held within or between individuals, groups, communities, societies or states; it may be physical, psychological, or emotional, or some mixture of each. Adding to this complexity, peace and justice too often have become idealized or politicized notions, sometimes portrayed as intimately and positively intertwined ("no peace without justice"), and on other occasions declared as mutually contradictory ("no peace settlement without withdrawal of ICC indictments") depending on the agendas of those making the case.

Serbia/Kosovo, Cambodia and Uganda provide three fascinating case studies of the complex political debates that are attached to the ideas of justice, forgiveness, reconciliation and peace building. In each case, internal (local, national) and external (regional, international) political, social, economic and other influences have played roles in shaping the nature of the "justice" that is sought by various actors in the violent conflicts that have done so much harm to their populations. What emerges from the analysis here is a story not of a single, clear path towards justice, reconciliation and sustainable peace, but rather of a difficult, awkward and uncertain process of balancing goals and claims that at different times can be complementary or contradictory, central or irrelevant, or more often a mixture of values that can change over time and circumstance as well as in the eyes of the beholder. The search for peace in Afghanistan, and how Afghan government and society (and no doubt, the international community including international organizations, interested states, and civil society organizations) try to address the questions of war crimes, crimes against humanity, and the roles, positions and futures of those individuals - in and out of government – and groups who may have committed such crimes, certainly will not be answered by these other experiences but should at least be informed by an understanding of their complexity.

Cambodia

Phnom Penh today is the home of the Extraordinary Chambers in the Courts of Cambodia (ECCC), commonly known as the Khmer Rouge Tribunal. Pol Pot already having died, the current trials involve five former senior leaders of the Khmer Rouge who allegedly oversaw the mass atrocities committed under that regime during the period 1975-79. Four of these senior figures - Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan - all remain in detention awaiting trial. The verdict from the first trial, that of Kaing Guek Eav (alias 'Duch'), commandant of Office S-21 – the former Tuol Sleng high school that became most infamous of the detention and interrogation centres, and the one that sent its 14,000 victims to the 'Killing Fields'

of Choeung Ek[6] was delivered recently, on 26 July 2010. After a trial that lasted 77 days, Duch received a sentence of 35 years in prison, recognizing and including the 11 years already spent in detention and 5 years in military court – meaning that the 67 years-old man will face 19 more years in prison. It was a portion of Duch's trial that this author attended during July and August 2009, as one of the several hundred people in daily audiences, mostly Cambodian villagers brought in to Phnom Penh by the ECCC Outreach office to witness the proceedings and to learn about Cambodia's dark past. In total during Duch's trial, approximately 31,000 visitors sat each day during public hearings in the viewing chambers of the court, separated from the court itself by floor-to-ceiling bullet proof glass and listening to the proceedings by headphones as Cambodian and international judges directed questions to the defendant. Whether these proceedings, so slowly and painfully negotiated between the Cambodian government of Prime Minister Hun Sen and the UN Office of Legal Affairs, are serving a useful purpose in educating and informing the people of Cambodia, in bringing justice against those who led the Khmer Rouge, and providing satisfaction and closure to those who suffered from its policies, is an open question explored in the paper.

Kosovo

Despite celebrations on one side and public anger on the other, the settlement of Kosovo's final status, either as a newly independent state or remaining as a province of Serbia (Kosovo and Metohija), does not hinge on the advisory opinion of the International Court of Justice rendered on 22 July 2010. The ICJ, requested by the government of Serbia to review the legality under international law of the Unilateral Declaration of Independence (UDI) issued by the Kosovo Albanian authority in Pristina on 17 February 2008, did not offer a definitive either/or opinion about the politics of Kosovo independence. The Court's advisory opinion, passed in a 10-to-4 vote by its judges, said that since international law contained "no prohibition on declarations of independence", the UDI "did not violate international law". [7] Legal experts pointed out that this was not the same as saying that the state of Kosovo was legal under international law, and that Kosovo's political legitimacy as a state would be conferred instead by those other states that chose to recognize it. But in any case, both Belgrade and Pristina already had staked out their political positions – Belgrade announcing that it would not accept an ICJ opinion supporting independence, and Pristina that it would reject an opinion that went against the UDI and Albanians' ambitions to a separate state. [8]

---

[6] Perhaps the best, short history of S-21 remains that provided by David Chandler, *Voices from S-21: Terror and History in Pol Pot's Secret Prison* (Berkeley: University of California Press, 2000).

[7] Dan Bilefsky, "World Court Rules Kosovo declaration Was Legal", *New York Times*, 22 July 2010 http://www.nytimes.com/2010/07/23/world/europe/23kosovo.html

[8] A useful overview of the final status negotiations up to the end of 2008 is Marc Weller, "Negotiating the final status of Kosovo", *Chaillot Paper* No. 114 (Paris: Institute for Security Studies, December 2008).

Aside from the opposed public positions taken by the political leadership on either side, daily relations on the ground between the Kosovo Albanian majority, Kosovo Serbs and other minorities such as the Gorani[9] and Ashkali, remain mixed – at times violent and ideologically fixed, and at other times peaceful and surprisingly pragmatic. In late August 2009, after word spread of a planned new Protocol on Police Cooperation to be signed between the new EU Rule of Law Mission in Kosovo (EULEX) and the Serbian Ministry of the Interior, hard-line Albanian pro-independence supporters of Albin Kurti's Self-Determination Party staged riots, attacking EULEX officers and vehicles, injuring one officer and damaging or destroying thirty vehicles. Warnings likewise were given that an ICJ opinion rejecting the UDI could lead to new violence. By contrast, in the November 2009 Kosovo Albanian municipal elections, a relatively high percentage of Serbs (40-45%) in the Serbian municipalities of central and southern Kosovo (such as Gracanica, which the author used as his base during research in February-March 2009), chose to participate in elections run by Pristina, against the express instructions of Belgrade which has supported separate and parallel Serbian institutions of government in Kosovo since 2008. Those Serbs who took part in the elections argued that Belgrade no longer was providing their future, and that they could best serve their own interests by ensuring that local Serbs would sit on the councils and be represented in Pristina.

Uganda

After gaining independence in 1962, Uganda endured decades of continuing violence under successive presidents - Milton Obote, idi Amin, Obote (again), and since 1986, Yoweri Museveni. While Museveni and his NRM party have been challenged by several uprisings, the most notable and long lasting has been the Lord's Resistance Army led by Joseph Kony.[10] The effective expulsion of the Lord's Resistance Army from the territory of northern Uganda after 23 years of fighting, despite the eventual failure in 2008 of the Juba peace negotiations, has brought what may be termed "negative peace"(meaning the absence of violent conflict, though its potential to return remains) to the still-wary Acholi population of the north and to Uganda more widely. Joseph Kony and his LRA guerillas now exercise their terror tactics of mass murder, mutilation and child abductions across the

[9] The Gorani are a Serb-speaking Muslim community living in the recently-created Dragas municipality in the Sar mountain region of southern Kosovo who have remained committed to a Serbian future for their children. They have been forced to rebuild their community higher into the mountains as the new, Albanian-majority district authority has placed considerable pressure on them. This pressure has been largely non-violent, such as efforts to oblige the Gorani to submit their children to Albanian-language schools by administrative measures such as rejecting permission to build latrines for their Serb-language schools, and refusing to allow new telecommunications towers to be constructed to serve the relocated community.

[10] A useful portrait of Kony is provided in Matthew Green, *The Wizard of the Nile: The Hunt for Africa's Most Wanted* (London: Portobello Books, 2008)

border in the Democratic Republic of Congo, Sudan and the Central African Republic.[11] For their part, the government forces of Museveni also have been accused of committing atrocities against any civilian populations of the north believed to be supporting Kony, and also as a result of ill-trained and undisciplined or corrupt soldiers seeking to profit personally in some form from the chaos of the war. As so often the case, innocent civilian populations were caught between, and abused by, the opposed fighting forces neither of which were concerned about civilians' welfare or safety and instead were sources of threat.[12]

The relative peace that has come since 2008 has given a breathing space to the hard-pressed population of Uganda, but it has not seen a peace agreement signed between Kampala and the LRA. Joseph Kony's supporters blamed the arrest warrants against him and four other LRA senior commanders – finally issued in October 2005 by the International Criminal Court, after it opened its investigations in January 2004 - for his ultimate rejection of the Juba peace negotiations. Others observing or involved in the negotiations were, and remain, skeptical that the LRA leader ever saw the talks as anything except a useful public relations tool and a means of gaining temporary respite in order to rest, re-equip and reorganize his fighters.[13] Ironically, the ICC indictment also has been opposed by many Ugandans who condemned the activities and crimes of the LRA but who either saw the international court's intervention as an unwelcome external complication in the search for a lasting peace, or who were unhappy that the ICC appeared publicly to side with Museveni and to ignore the atrocities also committed by his forces. Museveni for his part recently has sought to have the ICC return the LRA case to the Ugandan courts, but having already referred the case to the ICC this task is far from easy and depends on the ICC's evaluation of Kampala's ability to hold proper legal proceedings against Kony and his followers. While the ICC has yet to gain custody of Kony or any of the remaining LRA leaders, local reconciliation and reintegration of former LRA soldiers (including abducted children) using offers of amnesty, and traditional mechanisms and ceremonies continues to be a difficult, contentious and under-resourced task. Together these considerations provide a very interesting backdrop to Kampala hosting 1500-2000 delegates from 110 States parties, plus several hundred NGO representatives and scholars, attending the first five-year review of the ICC, from 31 May – 11 June 2010.

---

[11] Recent reports indicate that in the DRC since December 2008 the LRA has killed over 1800 people, abducted 2500, and displaced 280,000; in Sudan, 2500 have been killed and almost 90,000 displaced; and in attacks in the CAR during early 2010 the LRA has killed up to 50 people and displaced over 10,000.

[12] See Carlos Rodriguez Soto, *Tall Grass: Stories of Suffering and Peace in Northern Uganda* (Kampala: Fountain Publishers, 2009). Joanna Quinn has authored numerous excellent papers examining aspects of transitional justice in Uganda, and I have benefitted greatly from several conversations with her on these questions.

[13] Ibid., 217-221; and confidential interviews, Kampala and Gulu, Uganda, October 2009.

Cambodia: Views on Dealing with the Legacy of Pol Pot via the Khmer Rouge Tribunal[14]

i) Selectivity?

One criticism leveled against the Khmer Rouge Tribunal has been that its timelines, jurisdiction and/or mandate are too limited or selective – and that these limits (or 'exclusions', whether of temporal and geographical scope or of additional Khmer Rouge or even potentially international figures) clearly have been driven by pragmatic political considerations rather than by any legal or other justice-related concerns. The tribunal is tasked to address only the actions of the Khmer Rouge regime between 17 April 1975 and 6 January 1979, the period of its immediate rule as the 'government' of Democratic Kampuchea. Critics of selectivity raise three points in particular: first, that this timeline thus deliberately and hypocritically excludes consideration of America's illegal bombing of Cambodia between 1969-73 that is estimated to have killed up to half a million Cambodian civilians; second, that it also thus excludes and ignores self-interested Chinese, British, American and Thai material, financial and political-diplomatic support for Pol Pot even until as late as the early 1990s; and third, that the decision to seek prosecution only of the 5 senior living KR leaders currently in custody allows too many other former KR officers – many of whom still may hold national or local government posts in the Hun Sen regime, or other positions of social and political power - to escape their responsibility for the KR regime's crimes, and thus does little to address the oft-cited 'culture of impunity' in Cambodia.

These points against the political framing of the tribunal are well taken and even accepted by (some, at least) Cambodian observers of the trial. However, they respond with equally pragmatic, but more positive, positions. The first is that the Khmer Rouge Tribunal – as a body, and in its proceedings - involves no denial of these other events or external actors' policies. Efforts by Duch's legal defense team to raise such matters during his hearings were closed off on several occasions by the five judges as outside of the agreed scope of the proceedings; but the policies and events (such as US bombing of Cambodia) themselves have been extensively and publicly discussed and debated in academic research as well as in popular media, including in the United States of America. By contrast, they argue that the tribunal *is* addressing a period of time and a series of actions or atrocities that *have* been hidden, denied or ignored by Cambodians themselves to the extent that very few Cambodian school children had ever heard in any detail about the terrible experiences of their parents and grandparents under Khmer Rouge rule.

A second response, heard from several different Cambodian sources, is that it is too easy to be distracted by such criticism and to allow KR defendants and their

[14] Material for this section comes from interviews conducted in Phnom Penh and Siem Reap, Cambodia, during 12-23 July 2009 while the author attended the ECCC public hearings of Kaing Guek Eav, alias Duch. Secondary source materials also have been consulted extensively as background. All personal interviews were granted to the author on a confidential basis.

supporters to lay blame onto others (China, the USA, UK, or perennial 'other' and regional rival Vietnam). They argue that it is important, instead, to ensure that the perpetrators' own responsibility is not deflected by such tactics, and that formal legal accountability is established for what the KR did to their own fellow Cambodians – as well as to the unfortunate Vietnamese and a few other non-Cambodian victims.[15] Third, these same Cambodians suggest that the explicit focus on the top KR leadership serves the dual purpose of demonstrating that 'powerful' people *can* be held accountable for crimes committed against 'ordinary' Cambodians, while also giving lower-ranking former KR cadres some incentive to testify as witnesses and to speak the truth instead of seeking to hide, obfuscate or destroy it. Additionally, the small group of defendants thus also avoids creating a potentially enormous backlog and bottleneck of cases, with dozens or hundreds of alleged perpetrators being held in custody awaiting investigations and trials that could not be handled even by a combination of the KRT, Cambodian courts, and any external courts. Lastly, several interviewees mentioned during discussions on this general subject, the view that 'the perfect is the enemy of the good' - although it was not clear that they would have agreed upon a single vision of what constituted 'good' either as an institutional form, a legal or political or other process, or as a set of guidelines and goals.

ii) A hybrid court, imposed from outside

Cambodian as well as international critics of the tribunal also argue that it is above all else, an externally imposed body and process, pushed upon a reluctant Cambodian government and people by the same members of the international community that had supported Pol Pot, and had continued to recognize the Khmer Rouge as the "legitimate" government of Cambodia/Democratic Kampuchea (including retaining its seat in the United Nations) for several years after the regime had been ousted by the Vietnamese invasion in 1979, and its brutality had become more widely known. Western states had seen, and dealt with, the KR throughout the 1980s as a useful ally in the Cold War at least as long as its fighters imposed a security and financial burden upon Vietnam and hence upon Vietnam's superpower sponsor, the USSR. Once the collapse of the Soviet Union and the withdrawal of Vietnam from Cambodia removed this self-interested calculation, Western diplomats responded to public horror at images of KR brutality by seeking to assuage their own sense of guilt - and did this through an equally self-interested

[15] In this manner, Cambodia and Uganda are similar as they principally involve atrocities committed by one element of a national population against other elements of the same population (even if differentiated on tribal or other internal criteria). The conflicts in Serbia/Kosovo and Afghanistan, by contrast, have been defined in some large measure by violence between or by groups that arguably are distinct (Kosovo Serbs and Albanians; Afghan and Pakistani Taliban, Al-Qaeda terrorists, Afghan government forces, NATO/ISAF troops, and ordinary Afghans caught in the middle).

process of creating and imposing a western-style legal instrument that remained isolated from and irrelevant to 'ordinary' Cambodians' interests.

Against these views, almost every Cambodian and international interviewee noted that they share in common a lack of trust and belief in the Cambodian judiciary and in the legal system in general. Corruption is endemic at all levels, and regular political interference leaves little or no room for judicial independence in any matters of interest to the ruling regime of Hun Sen and the Cambodian People's Party. In contrast they suggest, a hybrid court can provide some assurance of independence and integrity. It also has the intentional benefit of providing mentoring and training for Cambodian judges, prosecutors and defence counsels, and other court officers who have been 'twinned' with international counterparts and who must operate under the gaze of international legal staff, as well as political and media analysts and scholars. This last point supports those interviewees who saw the hybrid court as a compromise solution that kept any trial of former KR leaders based at a Cambodian location and not elsewhere in the region or even outside of it (such as in The Hague). Doing so, they argue, has had additional positive results in terms of Cambodians' awareness of the proceedings of the tribunal, their access to it, and other 'outreach' related issues. These are addressed in the next section of analysis.

iii) Outreach, Education, and Addressing the 'Culture of Impunity' across Cambodia

Linked to the previous criticisms of the tribunal, but focusing more upon its internal Cambodian social or societal dimensions rather than upon the intersection of external and domestic political and legal-institutional issues, are debates about outreach, historical education, and Cambodians' everyday experiences with rule of law or impunity.

Tribunals are not a cheap alternative in the search for justice and reconciliation – the approved 2010-2011 (2 years) budget for the KRT is slightly more than US$87 million. Critics charge that hundreds of millions of dollars, along with valuable national and international political capital and the attention of numerous NGOs (also spending scarce money to attend, monitor, and report on the trial proceedings) have been absorbed by an institution and a process that largely are irrelevant to the knowledge, experiences, needs and interests of the majority of Cambodia's population and certainly not an immediate priority for these people. Census estimates indicate that 32% of the population of the country is under 15 years of age; and approximately 55-60% is under 30 years of age, with the median age of the population being 22.5 years. What that means in simple but practical terms is that none of these Cambodians had even been born when the Khmer Rouge were in power, so the lived experience for most Cambodians is very different from that of Ugandans, Kosovo Serbs and Albanians, and certainly for Afghans, the large majority of whom have known violent conflict in their recent past or remain caught in its grip.

If the era of Pol Pot seems a distant historical event for most Cambodians, it also is the case that the KRT has no bearing on these same citizens' contemporary encounters with matters of rule of law and impunity. Its subject matter and mandate

are far removed from their daily experiences, which often involve bribes having to be paid to local government and court officials, police (especially traffic police), and even to schoolteachers. Corruption and manipulation are commonplace street level events, not least because of the low pay scales of these minor officials e.g. teachers and ordinary police officers receive salaries equivalent to about $30 per month. Critics of the tribunal argue that the national and international donor funding directed towards punishing a few old leaders of a group from an especially ugly period of Cambodian history could be put to use far better by raising the pay, and improving the training and professionalism, of those faces of good governance that most affect Cambodians in their daily lives. For them, the real causes of Cambodia's oft-remarked 'rule of law deficit' are economic and political in character, and not a consequence of mass atrocities that ceased three decades ago. The tribunal may be a distraction from the core issues facing most Cambodians' lives and welfare.

In response to these views, several Cambodian interviewees admitted that the national education system had ignored the Khmer Rouge period almost entirely, to the extent that very few children even had heard of Pol Pot and his followers, and the terrible experiences of so many of their parents or grandparents under his regime. However, the establishment of the tribunal and the airing of Cambodian history through that vehicle, they argue, had significant effects in this area. Even a decade ago, there existed no systematic public education program. Currently, over one million Cambodian school children learn about the Khmer Rouge period via history classes, plays and popular shows. Alongside and emerging from the tribunal, it is suggested that a national memory is being constructed (or perhaps, reconstructed). The ECCC itself has a public outreach program that brings to Phnom Penh - often for the first time in their lives - and into the audience watching the proceedings, thousands of Cambodian villagers plus their families. The Outreach office also conducts preparatory and follow-up education and discussion programs. Cambodian and international news media attend each day's hearings, reporting on testimony and other developments surrounding the tribunal. Since this work is carried on within the country where the violent conflict occurred, all of this is done at a level of expenditure (and inconvenience for witnesses) considerably less than what has been incurred by other *ad hoc* tribunals based outside of the locations of atrocities, such as the ICTY and ICTR – or now also, the ICC.

A final observation raised by a number of Cambodians sympathetic to the court, and by several international analysts, is that we lay too much of a burden of expectation upon the ECCC – and upon any similar tribunal – if we expect it to serve as a social engineering instrument to rectify other problems of (and within) Cambodian society. The Canadian court system is not considered as an appropriate or even a relevant means of addressing problems in Canada's health care system or in its education system. Likewise, these Cambodia interviewees and international commentators argue, the ECCC can not, and should not, be evaluated in terms of solving Cambodia's political, social or economic challenges: while testimony before the court may help to clarify the acts and policies of the Khmer Rouge, and possibly the fates of some of its victims hitherto unknown, and while several former KR torture survivors have expressed their personal satisfaction at seeing the regime's most senior leaders (and Duch) in custody facing charges, it is neither fair nor

reasonable to build up expectations that the tribunal is a 'legacy institution' in any wider sense for Cambodia.

Kosovo: Reconciliation within or across Disputed Boundaries, Ethnic and Political

History – recent and older, factual or imagined – remains an important element of many Serbs' interpretations of their links to Kosovo, and plays a central role in their determination never to recognize or accept the Kosovo Albanians' Unilateral Declaration of Independence (UDI) announced in February 2008. The province of Kosovo and Metojiha[16] (the latter term meaning "monastic lands") is the home of the Serbian Orthodox Church, the site of an historical battle against an invading Turkish army, and what these same Serbs term the 'cradle of Serb civilization'. However, it also is a land dominated by a 90% majority Kosovo Albanian (and Muslim) population that views Belgrade with immense suspicion and even hostility, following the repressive policies of deposed dictator Slobodan Milosevic in the 1990s.

The author's most recent research trip to Belgrade and throughout much of Kosovo, covering over 2000kms of ground travel and visiting Serb and other minority enclaves in February-March 2009, was timed to coincide with the tenth anniversary of the NATO bombing campaign and the first anniversary of the UDI. Hence it was a time of heightened debate and discussion in this region regarding the status of Kosovo, and the condition of Serb-Albanian relations in the province. During these interviews, two themes or 'organizing characteristics' became apparent, and the analysis that follows is arranged around these three groupings. The first is what emerged during interviews as commonalities or similarities in describing the interests, goals, and experiences of the Serb, Gorani, and Roma minority communities, and to some extent also between these and the interests of ordinary Kosovo Albanians. The second theme is the differences and diversity of views and interests that nonetheless do exist within those same minority communities, most notably within the Kosovo Serbs of the north and those more isolated in central and southern Kosovo but even, and perhaps most surprisingly, within the upper reaches of the Serbian Orthodox Church.

[16] In Kosovo, place names are as political as anything else. Kosovo Albanians never use the suffix "Metohija" as it denotes a Serbian historical identity claim to the land; their name for this geographical entity, "Kosova" hence is a deliberate and conscious rejection of such claims. Except when referencing a specific point of view and/or a quotation that makes use of one of these opposed terms, this paper will use the common international name, Kosovo, in order to avoid entering into the debate on either side.

i) Commonalities

For the Kosovo Serbs, Gorani and Roma living in relatively isolated enclaves in central and southern Kosovo, their principal concerns identified in interviews were focused not on the judicial processes of the ICTY nor even on Serbian war crimes trial, but on their ability to engage in daily economic and social activities – or more accurately, the concern that their ability to do so still was very restricted as a consequence of the pressures being placed upon them by the surrounding Albanian population.

Since the riots of 2004, threats to their physical safety had receded, despite occasional flare-ups of violence. In place of these more obvious forms of hostility, what had emerged were continuing administrative challenges on issues of access to farmlands, markets, schools (especially post-secondary education but in some cases even secondary level schools) and health care centres, and to enforcement of property rights for apartments, businesses or farmland that had been damaged and abandoned, and often subsequently taken over by Kosovo Albanian groups during the 1999-2000 period or immediately following the March 2004 attacks against Serbian properties. Serbian communities had found themselves being presented by new Kosovo Albanian agencies with (relatively) large bills for power, water and other services that they could never pay and then had these services cut off. In other instances, a lack of stable and predictable power and water meant that sustained economic activity was made more difficult, while normal daily activities – cooking meals in homes, operating schools and medical facilities – could not count on basic services such as heating and lighting.

Lack of rule of law, or at least lack of trust in the rule of law system and institutions run by the new Kosovo Provisional Institutions of Government (PISG) in Pristina, was widely cited by Kosovo Serbs and other minority groups who saw the Kosovo Protection Corps (KPC) and then its successor the Kosovo Security Forces (KSF) simply as the latest incarnation of the Kosovo Liberation Army. The KSF were reported to provide non-Albanian populations and properties with little or no protection, investigation or enforcement of law; while neither UNMIK nor the (then-new) EULEX mission could fill in the gaps.

One result of these deficits and continued problems was that the smallest Serb enclaves were witnessing a loss of their youth as children were sent away to attend school and as young men, women and families moved north or else to other countries in search of job prospects and security. As described by many interviewees, this was seen as a policy of non-violent "ethnic cleansing" being promoted or directed by Kosovo Albanian authorities at all levels, as the smaller (500-1500 persons) enclaves were losing their children and younger working age population, and would become demographically unsustainable and politically irrelevant in a decade. Interviewees generally saw this as being tacitly accepted by UNMIK, KFOR and the EU (through EULEX), as none of these international organizations demonstrated any commitment or interest on the ground – both UNMIK and KFOR drawing down their numbers, and EULEX being small and without a mandate to do such work - to monitor events or to offer genuine protection in these smaller isolated communities.

While Kosovo Serbs, and Serbs interviewed in Belgrade, unanimously cited these daily challenges about governance that they saw as targeting them – and thus as expressions of unresolved or latent conflict between Serbs and Albanians in Kosovo – a number of interviewees (more so in Kosovo, but also some living in Belgrade and in Mitrovica) did suggest that 'ordinary' Kosovo Albanians also shared several of these problems, and/or were not themselves the source of these problems. These included physical insecurity when working around some Serbian enclaves but also as a result of Albanian criminal gang activities, high unemployment and poor job prospects, criminality and corruption of local governance institutions including the judicial system, and virtual impunity for common criminals given the low pay and high levels of corruption endemic to the justice system throughout Kosovo. The Humanitarian Law Center, based in Belgrade and staffed mainly by young Serbian law students and lawyers, also has pointed out in its public materials that the majority of unresolved cases of homicide, suspicious deaths and disappearances from the period of violence in 1998-2000 remain those of Kosovo Albanians. Of almost 13,500 people killed or missing, over 10,000 were Albanians; and out of 1,886 unresolved cases, 1,300 were of Kosovo Albanian civilians.

The perception of several interviewees at different NGOs engaged in activities related to missing persons in Kosovo was that insufficient interest, attention and resources had been directed by Belgrade – and virtually none at all by Pristina (or for that matter, by the representatives of the international community in Kosovo) towards resolving these decade-old cases. Instead they remained as causes of continued frustration in both ethnic populations, directed at the other group but also at their own government institutions. Even Albin Kurti, leader of the hard-line Kosovo Albanian Self-Determination Movement responsible for violence directed at the EU Rule of Law mission (EULEX), noted that institutional justice for – in his case presumably, Kosovo Albanian - victims of past violence was an essential precondition for inter-ethnic reconciliation.[17]

ii) Differences and Diversity

When talking about reconciliation between Serbs (and other minorities) and Albanians in Kosovo, outside observers often take for granted that each group exists

[17] Though I have yet to think through exactly how or where to situate this within the discussion of post-conflict reconciliation in Kosovo, one Belgrade-based observer also made the very interesting argument that much of what passed for conflict-related hostility by Serbs towards Albanians was (and is) in fact, instead an expression of basic racism. In this person's view, Albanians had been "dehumanized" in a manner similar to the racist policies and attitudes of the southern United States towards its black population in the 1950s. The dislike had remained latent, only coming into focus when Kosovo Albanians sought better education and job opportunities, political voices and improved social standing. This issue was raised late in my research interviews and I had no opportunity to explore it with other interviewees.

as a single entity. It is not true, of course: interviews suggested at least three types of division within the Serbian 'side' of the debate. Awareness of these differences is important since these divisions also bring with them varying implications for external and internal efforts to promote or achieve justice and reconciliation.

The first notable division of views and interests, and perhaps the most public and political, is that between the moderate Serb government of Boris Tadic in Belgrade, and hard-line Serb nationalists such as Serb Radical Party (SRS) leader Vojislav Seselj. The SRS, and the Democratic Party of Serbia (DSS) led by former Serbian prime minister from 2004-2008 Vojislav Kostunica (who also was the successor to Slobodan Milosevic in 2000 as the last president of the FRY), strongly oppose what they claim is the Tadic government's 'treachery' in accepting the presence and operation of the EULEX mission in Kosovo.[18] Deployment of EULEX was accepted by Belgrade after a UN Security Council vote that it would operate under UNSC resolution 1244, which formally recognized Serbian territorial integrity including the province of Kosovo and Metohija, rather than under the Ahtisaari plan that allowed for eventual independence. However, EULEX operates on a daily basis under the new, post-UDI laws of Kosovo; and its officers are staffing checkpoints established along a boundary line between Kosovo province and the rest of Serbia. Hence Serb nationalists argue that it reinforces in practice the territorial claims, new institutions and legal framework, and therefore the claims of independence, of the Kosovo Albanian authorities.

Notably, however, a number of non-government Serbs working in Mitrovica expressed the view that these disputes were self-interested political games between leaders vying for power and influence; and they argued that neither side had a genuine concern for, or even real understanding of, the needs of Serbs living in Kosovo. They also note with some irony that Seselj and the SRS actually share a common interest with Albin Kurti's pro-independence Albanian movement – namely opposition to the presence of EULEX. The SRS oppose the EU mission because they see it as *de facto* supporting Albanian independence claims, while Kurti's hard-line movement oppose it both because it entered Kosovo officially under UNSC Resolution 1244 and because any successes achieved by the EU customs and rule-of-law officers pose a challenge to Kurti's ability to retain power by fostering crises, and his supporters' alleged profits gained through 'managing' the movement of goods and people across the boundary line. Mitrovica, the famous or infamous 'divided city' that sits astride the boundary between Kosovo and the rest of Serbia and is divided between an Albanian zone in its south and a Serbian zone in its north, became the flashpoint for the latter group in 2008 with anti-EULEX riots.

A second internal Serb division is that between Kosovo Serbs living in the north of the province and those living in central or southern Kosovo. One recent expression of this difference has been the (already noted) relatively high participation by southern Serbs in the November 2009 Albanian-run municipal elections. A far lower percentage of Serbs living in more secure areas – chiefly north Mitrovica – took part as they either abided by the moderate Tadic government's instructions to ignore the Albanian elections and to support the existing Kosovo

Serb parallel institutions of government, or else they supported the SRS and DSS in their hard-line opposition to all forms of Kosovo Albanian independence. These southern Kosovo Serbs also saw the success of EULEX as necessary for their own security and for their future prospects in a Kosovo that they believe will not return to the control of Belgrade: they see the reality of Kosovo's independence as already settled on the ground, if not yet accepted in some diplomatic and political circles. Therefore, rather than being driven by concerns about justice for crimes committed against them in 1999-2000, or the anti-Serb riots of 2004, or restitution for any loss of property that had occurred during those years, many southern Kosovo Serbs appear to have made the pragmatic calculation that their own best interests would be served by participation in, rather than self-exclusion from, the new Kosovo Albanian institutions of governance. Insistence on what are for them more abstract political-legal principles (or equally narrow pragmatic self-interests for some northern Kosovo Serbs) is a luxury they believe that they cannot afford.

The third clear division within the Serb 'community' over Serb-Albanian relations in (and about) Kosovo, and the one most surprising to this author but an excellent example of the differences that often arise in the interpretation of terms such as 'justice' and 'peace', is that which exists within the upper reaches of the Serbian Orthodox Church. It is expressed in a conflict of views – one that has taken physical form on at least one occasion in clashes between their supporters, and has been played out in public since the time of these interviews – between Archbishop Artemija and Archbishop Theodosije.[19] The former, an aging but still intellectually and physically energetic and charming man when interviewed, also is a strong Serbian nationalist, highly critical of the NATO intervention in 1999 and deeply opposed to Kosovo independence. For Artemije, any discussion of Serb-Albanian reconciliation could only occur with Kosovo anchored firmly as part of a Serbia that itself was based on the twin institutional pillars of a strong state centered in Belgrade and a strong Serbian Orthodox Church. The church, presumably, would be run from or centered upon Artemije's base in Gracanica.

On the other side of this division stands Archbishop Theodosije based at Decani. In Theodosije's vew, politicians on all sides in the Balkans conflicts since 1992 have adopted and promoted their own historical – and usually exaggerated and factually incorrect - myths, as well as more recent victimhood stories that they sell to themselves and attempt to sell as well to anyone who will listen. He clearly is not pro-Kosovo Albanian, arguing that the UCK (known to the west as the Kosovo Liberation Army or KLA) essentially was an Albanian mafia organization that was politically astute enough to align itself with the West and thus to obtain NATO military support. Theodosije believes that it has been the divergent political interests, and subsequent political contests, of <u>both</u> (his emphasis) Serb and Albanian political leaders that have left so little room for possible reconciliation

[19] As their political disputes, and even criminal allegations, now have been reported in several media sources, their names have been used and associated with the arguments cited here.

between Serbs and Albanians, even though ordinary Kosovo Albanians and Serbs have no core religious or ethnic divisions that are insurmountable.[20]

iii) No 'agents of reconciliation'?

It was clear in all interviews that formal legal bodies – the ICTY especially, but also the ICJ after its cautiously mixed judgment on Serbian responsibility for the 1995 massacre of up to 8,000 Bosnian Muslim men and boys at Srebrenica – were held in little regard as modes of building (or rebuilding) relations between Serbs and Albanians over Kosovo. That was the case whether in regard to the issue of the declaration of independence, or in regard to atrocities committed or suffered by either 'side' since 1999-2000. At the national or local level, Serb war crimes investigations and trials had taken place and there was an active, critical and independent NGO 'watchdog' community monitoring and reporting publicly these developments. Several interviewees in Belgrade noted that the Tadic government itself is moderate, open to the West, and with its own mixed views on the practical future of Kosovo. Within the wider Serbian population, three main elements emerge – first, those still engaged in 'victimhood and transference', including hard line nationalists who remain staunchly anti-western, anti-NATO and anti-reconciliation; second, those who are ready to give some 'limited acknowledgement' of Kosovo Albanians' suffering at Serbian hands, and who are open to improving relations; and third, those who for various reasons have decided that they do not care and who prefer to seek simply to 'move on' with their daily lives in whatever manner will bring them the economic and physical security that they seek. Across all of these elements, it also was clear that the independence debate had become enmeshed with, and had distracted attention from, the discussions about (and prospects for) addressing issues of justice related to war crimes and other atrocities. In that climate of political uncertainty and wagon circling, as one interviewee expressed it, there have appeared no 'agents of reconciliation' to take on the historical myths and the recent experiences of the Kosovo Serb (or the Gorani, Ashkali, Roma or other) and Albanian communities, and to find a constructive path forward.

Uganda: Finding the Way(s) to Peace and Justice

One of the most knowledgeable and prolific contemporary scholars examining the use of customary practices and traditional mechanisms of acknowledgement, justice and reconciliation in Uganda, Joanna Quinn, has written numerous excellent studies on that subject. Rather than duplicating Dr. Quinn – or more likely, failing to do so - in speaking to the strengths and drawbacks of such approaches of Ugandans seeking to rebuild their lives after many years (for many of them, a lifetime) of experience with violent conflict, this section of analysis will focus on the intervention into

[20] Kosovo Albanians are Muslims but are not 'committed Muslims' – attempts by Saudi Arabia to finance new mosques and to promote Wahabism met with disinterest in the Kosovo Albanian Muslim community.

Ugandan affairs by the International Criminal Court (ICC). More particularly, it reports the lively debate and differing opinions of Ugandans – drawing from formal interviews and informal discussions with government political, diplomatic and military officials, lawyers, academics, NGO activists, officers of international organizations and international NGOs, as well as local cab drivers, newspaper vendors, hotel staff, and persons who approached me with interest wanting to speak in coffee shops, street kiosks, restaurants, or while walking the streets of Kampala and Gulu - that have accompanied this intervention.

i) Critics of the ICC – and of Formal Retributive Justice in Practice

After more than two decades of failing to offer any serious assistance to the Government and people of Uganda in stopping the atrocities of the LRA in the north of the country, the decision by the ICC to issue arrest warrants for Kony and four other LRA leaders is portrayed by its Ugandan critics – many of whom can found in the NGO community dealing with victims of atrocities - first as being responsible for the failure of the Juba peace negotiations in 2008. Kony announced he would not come out of the bush to sign the accord unless the arrest warrants first were withdrawn. As this could not take place under the terms of the Rome Statute, Kony rejected the peace negotiations. The LRA forces have remained in the bush and have continued to fight – no longer in Uganda, but instead murdering, maiming, abducting and displacing innocent civilians by the thousands in nearby regions of Sudan, Democratic Republic of Congo, and the Central African Republic. Uganda itself may not be the location of the atrocities today, but there is no guarantee that LRA units will not infiltrate back through the borders and into Uganda at a time when it suits their purpose to do so. There is negative peace – meaning absence of violent conflict – in terms of LRA attacks, but no feeling of assured or sustainable security.

Thus, the critics argue that the ICC derailed the most promising and systematic peace negotiations between the government and the LRA in several years, condemning yet more Africans in more states to suffer atrocities and displacement; and did so merely in the name of abstract – and self-righteous – 'Western' notions of justice. Ugandan children abducted into the ranks of the LRA as child soldiers, who might have been able to put down their weapons and rejoin their families, instead remain as LRA fighters but also as captives facing execution if they attempt to escape and possible death in battles against militaries in those countries. The arrogance of the intervention by the "Johnny-come-lately" institution then is especially frustrating to these Ugandan critics as they note also that the ICC arrest warrants in any case are irrelevant since it has no capacity to enforce them.

A different criticism of the ICC is that its intervention was not about the pursuit of impartial, universal (or Western-defined, for that matter) justice. Rather, they argue that the ICC Chief Prosecutor was seeking to identify one or two "slam dunk" cases to put onto the books of the relatively new body. This was a time when the US Administration of George Bush and the republican-dominated US Congress were engaged in an angry diplomatic campaign to undermine or destroy the capacity of the Court. In this hostile political climate, being seen to condemn the atrocities of the LRA, and taking strong action on a case that finally was garnering

much more public attention in western Europe – thus also gaining the attention of elected members of those governments – would be good for the institutional credibility of the Court and for its financial support, Again, the critics argue that the arrest warrants therefore were issued for reasons having nothing to do with the best interests or wishes of the people of Uganda who were suffering from the atrocities; the ICC intervention had negative effects on their lives, whatever it did or did not accomplish in the capitals or in the public opinion of Western states.

A third criticism of the ICC case against the LRA was mentioned at the beginning of the paper: namely, that President Museveni has sought to use the international body as a political tool in a number of ways. Being seen to invite in, and cooperate with, the court was (in the critics' view) a way of gaining some credit for the government at a time when it was seeking extra financial and economic support from international donors. Support for the ICC and its issuance of warrants against Kony and his leadership would serve the purpose of formally discrediting Kony and the LRA as a rival political movement, and have the added bonus of further discrediting the rival government of General Bashir in Sudan, whose government reportedly supported the LRA in Uganda with weapons, supplies, and money in retaliation for (reported) Ugandan support of the SPLA rebels in southern Sudan. Most cynically perhaps, the critics suggest that Museveni brought the ICC into the situation because he knew any arrest warrants would derail the Juba accord and stop any peace process – and thereby keep his own north Ugandan (Acholi) political rivals in disarray through continuing LRA attacks on the population.

The idea that Museveni has played the Court as a political tool, and that it likewise has accepted this arrangement for its own political-institutional purposes, has been reinforced in the minds of many Ugandans since the ICC has not begun investigations or issued any arrest warrants regarding atrocities committed by the Ugandan People's Defence Force (UPDF). The Ugandan army is said to have committed numerous atrocities – war crimes, and crimes against humanity including mass rape – but these allegations have not been taken up in charges.

Instead of what they variously describe as the problematic, irrelevant, politically manipulated, self-interested, and at worst destructive, intervention by and imposition of the ICC model of formal Western justice, these observers propose that Uganda be encouraged and supported in pursuing 'local' solutions. These would include a mixture of the use of traditional or customary mechanisms of justice and reconciliation, and an extension of the 2000 Amnesty Act that encouraged up to 20,000 LRA and other anti-Museveni fighters to lay down their arms, combined with the delivery of formal justice for the more senior LRA leadership most responsible for the atrocities through trials before the war crimes division of the Uganda High Court.

ii) Defenders of the ICC – and Doubters of Traditional Mechanisms

The International Criminal Court as a mechanism of formal justice in Uganda does also have its supporters and defenders, and not just from amongst the officers of the international organization community. Several Ugandan human rights activists and others interviewed or spoken with in various capacities were much more positive

about the court's intervention, or far less convinced that the ICC was the real reason why Kony rejected peace negotiations at Juba; while a number of them expressed doubts regarding the relevance, efficacy and/or appropriateness of much of the emphasis on tradition and custom being advocated as a better alternative in the search for peace, justice and reconciliation 'after the LRA'.

First, the arrest warrants issued by the ICC against Kony and his senior commanders were entirely justified given the LRA's long history of committing mass atrocities with a level of brutality directed towards civilians that has surpassed most other violent conflicts. Arguments about other actors' crimes, or about political strategies associated with the ICC decision to take on the LRA case, may or may not be merited but none of these should be allowed to detract – or to distract – from the core point that Kony amply deserves to be facing the charges directed towards him by the chief prosecutor.

Second, on a political rather than legal note, the ICC arrest warrants also could be seen to have acted as an incentive to Kony's participation in peace negotiations. Timing suggests that this is a reasonable argument – the Juba negotiations opened after the arrest warrants had been issued, not beforehand. So the issuing of the warrants did not prevent the talks from starting, or from them developing areas of agreement on substantive issues.

Third, speculatively but not without precedent given the many talks that had been begun with Kony in the past, is the argument that the then-recent Comprehensive Peace Agreement (CPA) signed between Khartoum and the SPLA in southern Sudan had meant that Kony lost his safe havens in Sudan where he previously had been able to rest and re-equip his LRA fighters. This made him much more vulnerable to UPDF operations in Uganda, hence his decision to open peace talks with Kampala should be understood as a means of stalling for the time he needed to develop new bases (in Garamba National Park, and in other locations in CAR and DRC). In this interpretation, Kony never intended to sign anything associated with the Juba talks – his complaints about the ICC warrants as forcing him to remain in hiding, or as being a tool for Museveni were merely another ruse, perhaps also intended to play for sympathy and support amongst the northern Ugandans who had been his supporters in the past.

Aside from these opinions in the debate about the role of external, formal legal mechanisms of justice, there also exist a variety of doubts about how much can be accomplished by the use of traditional or customary mechanisms of justice and reconciliation. Again, Joanna Quinn and others have identified and addressed these issues at length and with great expertise in their writings. A few comments raised by interviewees will be provided here. First, it was suggested that many local tribal elders in the north had been supportive of the LRA initially at least, and for other anti-Museveni movements, for their own political power reasons. They were not simply or passively suffering from LRA attacks, even though members of the population were doing so. Second, with many tribes having their own specific rituals for different purposes, a number of interviewees questioned how these all could ever be managed (or 'reconciled' in a managerial sense) with the development of a credible national, comprehensive and consistent approach to delivering justice and promoting reconciliation. Third, and related in part to the first point, traditional

rituals also can be expressions of local power more than they are actually relevant, appropriate or accurately performed mechanisms for reconciliation, reintegration or other peace building objectives. Finally, an argument heard during a number of conversations in Kampala as well as in Gulu and locations in between, is that proposals to use these traditional customs either intentionally or unintentionally de-politicize a conflict that was, and remained throughout, an expression of north-south political rivalry. Hence such mechanisms divert attention (especially in western capitals and donor states) from the need to look at, and deal with, the root causes of the uprisings against the long rule of Uganda by Yoweri Museveni. That is political reconciliation at a wider, strategic level beyond the immediate concerns of LRA atrocities, abductions and mutilations, or the reintegration of former child soldiers.

Conclusion: Peace, Justice and Reconciliation – Lessons Learned?

An observation by the author, based on interviews and conversations in all three of the research locations, and something identified and expressed as such by a few of those persons interviewed, is the experiential and geographical divide that exists within the populations in each location. By this is meant, divisions within Serbs – between Belgrade and hard liners in Kosovo, or north and southern Serbs in Kosovo, or within the church; divisions within Cambodians, especially between urban and rural Cambodians but also between the few aging survivors of the Khmer Rouge era and the vast majority of young Cambodians; and in Uganda, divisions of many forms perhaps the most innocent of which was the surprise and concern expressed by several hotel staff who had never travelled the few hours' drive northwards and across the Nile river, and who saw that part of their country as dangerous and threatening even though irrelevant to their own daily lives. There is not just a division between victim and perpetrator to overcome (and of course, as mentioned in the introduction, many times perpetrators also are victims, such as abductees who become child soldiers and commit atrocities), but also very deep differences of understanding and sympathy based on other types of lived experience.

A second observation is that while international courts - ad hoc like the ICTY and ICTR, or permanent in the form of the ICC – rightly seek to act as if they are non-political, in reality it is just as impossible to separate law and justice from their political contexts as it is to argue that development assistance in underdeveloped countries has no political significance to local power brokers. Everything is political, and everything is local – because people view, interpret and respond to such initiatives in political forms, and they invariably understand them within the particular contexts of different locations.

A third observation links to a discussion about sequencing in transitional justice – questions such as whether one seeks peace before justice, or if there can be no peace without justice; or whether formal or informal mechanisms should be pursued first (and amongst those, which ones). The response of this author, after looking at these cases, has to be that there is no clear path and no single recipe – and

that even within one case, a convincing single answer is difficult to find (though many people claim to have one). If no one mechanism seems to work best, and if different groups all claim their own grievances and their own answers and thus have different views on the way forward, it may be that "everything, immediately and all the time" may be the most common descriptive as much as a prescriptive answer. Then, of course, limited resources and uncertain capacity become leading questions and challenges.

Finally, the author was fortunate enough to be able to spend even a short time in Afghanistan early in 2010, speaking to international and Afghan political, military, bureaucratic, academic, NGO and other persons on a number of issues including matters of justice, reconciliation and reintegration in the search for successful war-to-peace transition. There, programs to offer amnesty to lower ranks of Taliban fighters and other anti-government elements, or to bring them onto the Afghan government and NATO side through provision of 'alternative livelihoods', while talking peace and participation with senior Taliban members in Quetta (via talks held in third-country locations such as Saudi Arabia), all are under intense scrutiny. Calls for justice to be pursued in dealing with warlords now sitting at various local, regional or national levels in the Karzai government who are alleged to have committed atrocities during the chaos of the late 1980s and 1990s, can be heard but receive short shrift in Kabul from the Afghan or international government representatives. Then there are those who argue that 'peace' first must be won by military means, through demonstrating to the Taliban that they cannot win and that they must accept and join with the Islamic Government of Afghanistan. Thus far that argument has met with limited success – indeed, the situation in many locations around Afghanistan would indicate the opposite as Taliban forces or sympathizers hold sway. As lives are being lost daily in the violence of Afghanistan's war(s), it is almost a trivial cliché to say that the unfortunate population of this war-torn state are suffering though a period in which questions of peace, reconciliation and reintegration are a matter of life and death.